

PATENT
454313-3184.1

REMARKS

Applicants thank the Examiner for courtesies extended during the telephonic interview of July 15, 2003.

Reconsideration and withdrawal of any rejections of the application, and allowance of the claims, especially in view of the amendments and remarks made herein are respectfully requested.

I. STATUS OF THE CLAIMS

Claims 34-44 are pending in the application. Claims 1-33 have been canceled, and claims 34-44 added without prejudice, admission, surrender of subject matter, or intention of creating any estoppel as to equivalents. Support for new claims 34-44 is found throughout the specification, particularly in the original claims.

No new matter is added.

It is respectfully submitted that the claims herewith and the claims as originally presented are and were in full compliance with the requirements of 35 U.S.C. §§101, 102, 103 and 112. The amendments to these claims, and remarks concerning these claims, were not made for the purpose of patentability within the meaning of 35 U.S.C. §§101, 102, 103 or 112, but rather for clarification and to round out the scope of protection to which the Applicant is entitled.

II. THE §112 REJECTIONS ARE OVERCOME

Claim 19 was rejected under 35 U.S.C. §112, first paragraph. Claims 12 and 21-33 were rejected under 35 U.S.C. §112, second paragraph. In view of the cancellation of claims 1-33 and the addition of new claims 34-44, reconsideration and withdrawal of the rejections is requested. Specifically, claim 34 is drawn to a method for preventing the occurrence of gastric ulcers in a horse subject to a stress that causes gastric ulcers, and claim 38 depends from claim 34 and recites the stresses of training, transportation, change in environment, or pregnancy.

III. THE §103 REJECTIONS ARE OVERCOME

Claims 1-19 and 21-33 were rejected under 35 U.S.C. §103(a) as allegedly being rendered obvious by FDA Federal Register ("FDA"), Papich, or WO 96/31213, alone or in

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combination. In view of the cancellation of claims 1-33 and the addition of new claims 34-44, reconsideration and withdrawal of the rejections is requested.

The Office Action (at 2) asserts that FDA relates to the use of omeprazole for the prevention of gastric ulcers in horses. As noted in the Amendment mailed on December 18, 2002 (at 5), FDA only pertains to the use of omeprazole for the treatment of gastric ulcers in horses and for the prevention of reoccurrence of gastric ulcers in horses. FDA does not describe or suggest the use of omeprazole for the prevention of gastric ulcers in horses prior to the occurrence of gastric ulcer conditions.

The Office Action (at 3) asserts that Papich relates to the use of omeprazole for the prevention of gastric ulcers in small animals, including dogs. As noted in the Amendment mailed on December 18, 2002 (at 6), Papich only pertains to the use of omeprazole in small animals in cases where the animals are susceptible to the development of gastric ulcers because of concurrent disease or drug therapy. Papich principally relates to the treatment of NSAID-induced ulcers in dogs. Papich does not relate to, teach, or suggest the prevention of ulcers in large animals such as horses.

WO 96/31213 relates to compositions comprising proton-pump inhibitors.

New independent claim 34 and dependent claims 35-44 are drawn to methods for the prevention of gastric ulcers prior to the occurrence of gastric ulcer conditions in horses. In contrast, FDA relates to prevention of reoccurrence of gastric ulcers in horses, and Papich relates to prevention of gastric ulcers in small animals that are predisposed to develop ulcers because of disease or drug therapy. Therefore, the cited documents alone or in combination do not teach, suggest, or provide motivation for a skilled artisan to practice the presently claimed invention. Accordingly, reconsideration and withdrawal of the obviousness rejections are respectfully requested.

PATENT
454313-3184.1**CONCLUSION**

In view of the amendments and remarks made herewith, the application is in condition for allowance. Consideration and entry of this paper, favorable reconsideration of the application, reconsideration and withdrawal of the rejections of the application, and prompt issuance of a Notice of Allowance are earnestly solicited.

Respectfully submitted,

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